



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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I-29-91

Mr. Clarence L. Sherrod
Legal Counsel
Madison Metropolitan School District
Doyle Administrative Building
545 West Dayton Street
Madison, Wisconsin 53703-1967

Dear Mr. Sherrod:

You have written to my office requesting an opinion on the applicability of the open meetings law to the Madison School District's Strategic Planning Team. You would like an opinion on three questions.

Your first question is whether the strategic planning team is a "governmental body" within the meaning of section 19.82(1), Stats. That section defines "governmental body" to include "a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order."

The term "order" is not defined in the open meetings law. The provisions of the open meetings law must be broadly construed to ensure the public's right to the "fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business." Sec. 19.81(1) and (4), Stats. Accordingly, this office has interpreted "order," as used in section 19.82(1), to include any directive from an existing governmental body, that authorizes the creation of another body and assigns duties to that body. 78 Op. Att'y Gen. 67 (1989).

The supreme court has made it clear that the open meetings law applies to purely advisory bodies created by "rule or order" of an existing governmental body. State v. Swanson, 92 Wis. 2d 310, 284 N.W.2d 655 (1979). The supreme court has also made it clear that the law applies to informal as well as formal action, *i.e.*, to discussion and information gathering, as well as decision making. State ex rel. Newspapers v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

As I understand it, the school board created an Ad Hoc Strategic Planning Committee. The school board charged the committee with appointing members to a Strategic Planning Team and with developing a process for strategic planning. The committee

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has selected the members of the Strategic Planning Team, which includes school board members, other public officials, members of the public and school district employees. The Strategic Planning Team is now responsible for developing strategic goals and specific plans for attaining those goals. The team will present its entire plan to the school board for approval.

Given these facts, it is fair to say that the school board authorized the creation of the Strategic Planning Team and assigned it the duty of advising the school board on goals the school district should adopt. I, therefore, conclude that the Strategic Planning Team is a governmental body within the meaning of section 19.82(1).

Your next question is whether there is an exemption in section 19.85(1) to "facilitate" the team meeting in closed session. The open meetings law creates a strong presumption in favor of conducting meetings in open session. Every meeting of a governmental body must be held in open session unless an exemption in section 19.85(1) applies. Given this strong presumption, it behooves a governmental body to assume from the outset that any given meeting must be held in open session. The governmental body should consider convening in closed session only if there is a specific, articulable reason for doing so and if that reason fits squarely within an exemption in section 19.85(1).

Your letter does not indicate the reasons why the Strategic Planning Team believes it would be in the public's interest for the team to convene in closed session. Nor does it indicate the exemptions under which the Strategic Planning Team believes closure is authorized. Without both pieces of information, I cannot provide an opinion on the propriety of the Strategic Planning Team convening in closed session. As a state official responsible for enforcing the provisions of the open meetings law, it would be improper for me to speculate as to possible justifications for convening in closed session.

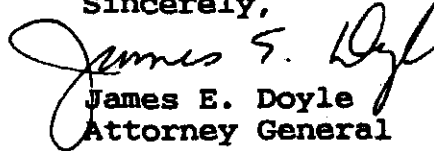
Finally, you note that the Strategic Planning Team has scheduled a three-day work session to be held in Delavan, Wisconsin. You ask whether holding the meeting in Delavan would be in compliance with the requirement in section 19.82(3) that a governmental body hold its meetings in a place "reasonably accessible" to members of the public.

The open meetings law does not explicitly require a governmental body to hold its meetings at a location within or proximate to the jurisdiction that the governmental body serves. Here again, however, the provisions of the open meetings law must be broadly construed to ensure the public's right to knowledge about the affairs of government. In most cases, holding a meeting

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at a location outside the jurisdiction which the governmental body serves would work to deprive interested members of the public of their right to attend the meeting. Thus, in an informal opinion, dated May 25, 1977, which I have enclosed, my predecessor concluded that a school board meeting held more than forty miles from the school district was not "reasonably accessible." In order to avoid violating the "reasonably accessible" requirement, I advise governmental bodies to hold their meetings at a location within the jurisdiction which the body serves.

Sincerely,


James E. Doyle
Attorney General

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Enclosure

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